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A REPORT OF INTERIM ACTIVITY . . . MONTANA LEGISLATIVE COUNCIL . . . HELENA

AUGUST 1984

VOL. IV, NO. 15

SHELVED WITH  
PERIODICALS

## JOINT INTERIM SUBCOMMITTEE NO. 2

HJR 40 STUDY  
COMPLETED

Meeting in the old Supreme Court Room on July 30, the subcommittee heard the final presentation from the Department of State Lands and completed its study on management of forest lands and funding of forest fire protection by approving these recommendations to the Legislature:

1. The state proceed with the equalization of forest fire protection responsibility with the U.S. Forest Service by assuming in the next biennium the White Sulphur Springs Block, the second of five blocks. A decision will be made in two years whether to continue the equalization process.

2. The minimum annual assessment for fire protection on private forest land on which the owner does not provide protection be increased from the current \$6 to a maximum of \$30, with the Department of State Lands to implement the increase in stages as necessary while maintaining the 2:1 ratio of public to private share of the cost of fire protection, and that the Department inform the Legislative Finance Committee by August 1 preceding the regular session of the Legislature of any anticipated increase in the assessment. The per acre assessment of 16 cents is unchanged.

3. Funds be appropriated to increase the annual timber harvest from state forests by 15 million board feet. This would require increased appropriation for each year of \$315,000 from the general fund and \$540,000 from the earmarked revenue fund. This increased appropriation would result in additional earnings of \$1,125,000 for the permanent school trust fund.

The subcommittee requested drafting of bills necessary to implement these recommendations and will review the bills on September 28.

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NAVIGABILITY  
DISCUSSION  
CONTINUES

On the subject of recreational use of Montana's waterways, the subcommittee began its work with a presentation and discussion of the public trust doctrine, led by John Thorson, Natural Resources Consultant and attorney on contract with the Select Committee on Water Marketing, and Margery Brown, Associate Dean, University of Montana School of Law. The public trust doctrine, as well as the Montana Constitution, formed the basis of the Montana Supreme Court's decision in the Dearborn and Beaverhead River cases, allowing recreational use of Montana surface waters by the public.

The subcommittee next received reports from staff on issues that the public frequently has raised in the context of this study. These issues included the law on: prescriptive easements, liabilities, trespass, litter, criminal mischief, public nuisance, and the authority of the Department of Fish, Wildlife, and Parks over recreational use of state waters.

PUBLIC  
HEARING

Following these presentations the subcommittee received three hours of public testimony on the above matters.

PRELIMINARY  
RECOMMENDA-  
TIONS  
FORMULATED

In the evening session, the subcommittee began the process of making recommendations to clarify and change the law. Motions passed to request staff to draft legislation to include the following:

- (1) define "ordinary high-water mark";
- (2) eliminate the ability to acquire a prescriptive easement through recreational use of land;
- (3) prohibit public recreational use of diverted waters, including diverted waters held in storage;
- (4) criminalize any trespass action, whether or not prohibition of entrance to the land is expressly stated, and eliminate a cause of action for trespass under civil law; and
- (5) prohibit public use of the streambeds, except as incidentally may be necessary while using the waters.

SEPTEMBER 28  
DATE SET

The subcommittee further instructed staff to mail copies of these drafts to interested persons and set its next meeting date for September 28. The

September meeting may be the final one for Subcommittee No. 2.

#### LEGISLATIVE COUNCIL

##### BILL DRAFTING POLICY

Questions have arisen recently as to the Council's bill drafting policy. As stated in the Council's rules of procedure, "bill drafting requests will not be honored until the Secretary of State has made his canvass of votes, except that the requests from holdover senators and legislators running unopposed may be processed as staff time permits." Council drafters have lists of those members who fit the exception. We hope this reminder of the policy answers any questions that anyone may have about who may ask for a bill draft between now and November.

##### COUNCIL MEETING AUGUST 17

The Council will meet August 17 in Room 139 of the Capitol to consider its budget and other Council business.

#### REVENUE OVERSIGHT COMMITTEE

##### NEXT MEETING AUGUST 24-25

The Revenue Oversight Committee will hold its next meeting on August 24-25 in Room 104 of the Capitol in Helena. Friday's meeting will begin at 9:30 a.m.; Saturday's at 8:00 a.m.

The tentative agenda includes staff reports on railroad valuation and on legal issues involved in railroad taxation; further discussion on the Governor's proposal for a Legacy Program relating to the use of funds from the Resource Indemnity Trust Fund; reports from Judy Curtis of the Legislative Fiscal Analyst's office and Dave Lewis of the Office of Budget and Program Planning on state revenues; discussion on several draft bills concerning liquor licensing, property tax exemption for church-owned passenger vehicles, and timber taxation. The Department of Revenue will propose a number of draft bills on various matters. The Department will also report on the reappraisal process, litigation, and other revenue matters.

#### COAL TAX OVERSIGHT SUBCOMMITTEE

##### NEXT MEETING MOVED TO HELENA

The next meeting place and date have been changed from Billings on August 9 and 10 to Helena on August 10 only. The reason for the change is that

the North Dakota Tenneco Impact Committee will not be ready to present its interstate compact proposal until September.

The August 10 meeting will begin at 8:30 a.m. in Room 104 of the Capitol. Agenda items include follow-up on subjects discussed in Billings June 18 and 19:

- Use of Coal Severance Tax funds for research;
- Funding for Vocational-Technical Schools and Adult Basic Education;
- Eligible uses of County Land Planning Funds; and
- Review of draft bill to allow use of Coal Severance Tax funds for development, operation, and maintenance of all sites in State Parks System for four years.

MEETING WITH  
NORTH DAKOTA  
SET FOR  
SEPTEMBER 24  
AND 25

The dates of September 24 and 25 have been chosen for rescheduling the joint meeting of the Coal Tax Oversight Subcommittee and the North Dakota Tenneco Impact Committee in Billings. At that time, the North Dakota committee will present its proposal for mitigation of local impacts of the proposed Tenneco coal gasification plant in the Wibaux-Beach area.

#### MONTANA SALARY COMMISSION

FIRST MEETING  
SET FOR  
SEPTEMBER 14

The first meeting of the Montana Salary Commission for this biennium is scheduled for 1:00 p.m., Friday, September 14, in Room 436 of the Capitol.

The Salary Commission is required to meet at least twice before presenting recommendations to the Legislature by November 15 on the level of compensation of legislators, elected state officials, district judges, supreme court justices, State Tax Appeal Board members, and the Commissioner of Political Practices.

Members of the Salary Commission are Milton Datsopoulos and Mae Nan Ellingson of Missoula, Deborah L. Hanson of Miles City, Carra George of Laurel, Pat McKittrick of Great Falls, Carolyn E. Morrison of Lewistown, and Carlyle D. Leeds, Sr., of Havre.

Robert T. Stevens, Jr., of Bozeman resigned from the Commission last month, and his successor will be named by Representative Robert L. Marks who, as Speaker of the House in 1981, named Mr. Stevens to the Commission.

#### ENVIRONMENTAL QUALITY COUNCIL

MEETINGS  
SCHEDULED  
SEPTEMBER 6-7

The Environmental Quality Council and its subcommittees have tentatively scheduled meetings for September 6 and 7. On September 6, the Natural Resources Oversight Subcommittee will hold a full-day session to address hard-rock mining taxation, the draft Major Facility Siting Act rules, and the proposed Natural Resource Legacy Program. On the morning of September 7, the Water Resources Oversight Subcommittee will consider water use issues, while the Toxic Substances Subcommittee will discuss proposed legislation on weed control and employees' rights to know about hazardous chemicals in the workplace.

The full EQC will meet during the afternoon of September 7, with major topics to include hazardous waste disposal in Montana and groundwater contamination from leaking fuel tanks.

LEGISLATIVE INTERIM CALENDAR  
AUGUST

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
			1	2 EQC-Ground Water Adv. Council Rm. 436	3	4
5	6	7	8	9	10 Coal Tax Over. Comm. Rm104	11
12	13	14	15	16	17 LEGISLATIVE COUNCIL Rm. 139-10am	18
19	20	21	22	23	24 Revenue Oversight Comm. Rm. 104 - 8-5	25
26	27	28	29	30	31	



\*all meetings are subject to change

# LEGISLATIVE INTERIM CALENDAR

SEPTEMBER

SUNDAY

MONDAY

TUESDAY

WEDNESDAY

THURSDAY

FRIDAY

SATURDAY

1

2

3

LABOR  
DAY

4

5

6

Subcomm. #3

7

- Room 104

8

9

10

11

12

13

14

Salary Comm.  
Room 436  
1:00 p.m.

15

16

17

18

19

20

Select Comm.  
on Ind. Aff.  
Rm. 104

21

Revenue Oversight Comm.  
Rm. 104

22

23

24

Coal Tax Oversight Comm.  
Billings

25

26

27

28

Subcomm. #2

29

30

Subcommittee #4

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